

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**No. 13-cv-0237 MV/SMV
11-cr-1065 MV**

ACXEL BARRERA-MUNOZ,

Defendant.

ORDER DENYING MOTION TO APPOINT COUNSEL

THIS MATTER is before the Court on Defendant's [Motion to Appoint Counsel] [Doc. 2] ("Motion"), filed March 20, 2013. Plaintiff has not filed a response, and none is needed. The Court, being fully advised in the premises, FINDS that the Motion is not well-taken and should be DENIED.

Defendant requests that the Court appoint him with counsel "from the CJA panel." Motion [Doc. 2] at 1. Defendant states further that he is indigent and that he has access to very limited legal resources as a result of his incarceration. *Id.*

There is no constitutional right to counsel in habeas proceedings. *Coronado v. Ward*, 517 F.3d 1212, 1218 (10th Cir. 2008). Instead, whether to appoint of counsel is a matter left to the discretion of the court. *Swazo v. Wyo. Dep't of Corr.*, 23 F.3d 332, 333 (10th Cir. 1994). In so deciding, courts should consider "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted). Ultimately, the burden is on the petitioner "to convince the

court that there is sufficient merit to his claim to warrant the appointment of counsel.” *Hill v. Smithkline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir 2004) (internal quotation marks omitted).

The Court is not convinced that there is sufficient merit or complexity in Plaintiff’s claims to warrant the Court’s requesting assistance of counsel. Moreover, thus far, Plaintiff has been adequately presenting his claims.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant’s [Motion to Appoint Counsel] [Doc. 2] is **DENIED**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge